

**Ravalli County Planning Board
Meeting Minutes for April 19, 2006
3:00 p.m.
Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana**

Public Hearing
Hamilton Heights Block 17, Lot 2A, AP (Bundy) Minor Subdivision

This is a summary of the meeting, not a verbatim transcript. An audiotape of the meeting may be purchased from the Planning Department for \$10.00.

1. Call to order

Dan called the meeting to order at 3:05 PM.

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Members

Ben Hillicoss (present)
Dan Huls (present)
JR Iman (present)
Frankie Laible (present)
Roger Linhart (present)
Chip Pigman (present)
Les Rutledge (absent – excused)
Lori Schallenberger (present)
Gary Zebrowski (absent – excused)

(B) Staff

Karen Hughes
Tristan Riddell
Renee Van Hoven
Jennifer De Groot

3. Approval of Minutes:

Dan asked if there were any corrections or additions to the minutes from April 5, 2006. **Ben** said he would like to add a comment he made about parks. **Dan** said that once Ben submits his changes, the minutes will be approved.

4. Amendments to the Agenda

There were none.

5. Correspondence

There was none.

6. **Disclosure of Possible/Perceived Conflicts**

There were none.

7. **Public Hearing**

(A) **Hamilton Heights Block 17, Lot 2A, AP (Bundy) Minor Subdivision**

- (i) Staff Report on the Subdivision Proposal: **Tristan Riddell** gave a PowerPoint presentation. He gave an overview of the proposal and stated Staff recommended conditional approval of the subdivision. He entered the Staff Report into the record. (See Attachment B, Hamilton Heights, Block 17, Lot 2A, AP (Bundy) Staff Report)

- (ii) Three Minute Rule Waivers

There were none.

- (iii) Public Comment on the Subdivision

- (a) Persons in Favor

Steve Powell of Powell Surveying said that the Bundy family wants to create a new lot for their grandchildren. A new road approach off Honeyhouse Lane has been approved by the Road Department. He said an irrigation easement will be approved by Daly Ditches as soon as he provides an irrigation plan and \$100. He asked that contributions to the school and fire districts be required for the proposed lot without an existing structure.

Mrs. Russell Bundy & Sherry Bundy said that they want to add another house to the land for grandchildren. They noted that they would like to keep the land in the family.

- (b) Persons Opposed

There were none.

- (c) Rebuttal

There was none.

- (d) Close: Public Comment

- (iv) Board Deliberation on the Subdivision Proposal

- (a) Board discussion and questions

Ben asked how long the existing houses have been there.

Mrs. Russell Bundy said that the homes on the parcel are seventeen and eleven years old. She said a modular home was added three years ago after a Boundary Line Relocation.

JR Iman asked if the irrigation easement serviced all four of the lots and if they needed to extend the easement to the boundary of Lot 2A-2.

Steve Powell said the easement could be moved to provide access to Lot 2A-2 and Lot 1-A. He mentioned that the irrigation might possibly be moved underground.

Chip said the letter from Corvallis Rural Fire District required impact fees to be paid prior to final plat approval. He said he researched Senate Bill 185 and it required impact fees to be paid only after building or septic permits are issued.

Karen explained that the County considers donations to the Fire District to be contributions and not impact fees and they can be required as a mitigating condition of preliminary plat approval. She noted that the Planning Board can recommend different conditions.

Chip recommended that the Corvallis Fire District change their terminology in their letters or that the Planning Board treat impact fees lawfully.

Lori motioned to approve the subdivision amending Conditions 4 and 5 of the Staff Report, so that the contributions are paid upon first conveyance.

Frankie added that the Bundys should make contributions for the new lot only.

Lori said the contributions should be made for Lot 2A-2 only and added the stipulation that the irrigation easement extend to the boundary between Lot 2A-2 and Lot 1A.

Frankie seconded the motion.

Steve agreed to a \$250.00 donation to the Corvallis School District.

JR indicated he thought the applicant should not have to pay pro-rata for the new access off Warbler Lane.

Renee said that if Lot 2A-3 was accessed off Warbler Lane, according to the subdivision regulations, they would have to pay pro-rata for the Lane. If Lot 2A-3 was accessed off Honeyhouse Lane, the driveway would then become a road because it serves two parcels. She said the Bundys would need to apply for a variance if they did not want to pave the new road off Honeyhouse Lane.

Steve said he did not request a variance and explained that paying pro-rata for access off Warbler Lane was less expensive than building a road to standard.

Frankie asked if the Board could offer a variance if the applicant had not already applied for one.

Renee said variances have to be applied for first and need proper legal notification.

Karen noted variances can be applied for before, during, or after subdivision review. However, she said the variance request must come before the Board

again and the Board cannot grant approval to a variance before it returns for deliberation.

JR entered into the record an opinion of the Board that if an approach is approved to access Lot 2A-3 off Warbler Lane, a variance from paying pro-rata should be granted.

Lori asked why the Bundys could not use a family exemption.

Steve answered that the land was within the Hamilton Heights subdivision and was not eligible for a family transfer.

The Board questioned how to deal with the timing of the variance and subdivision.

Karen said the Board could hold the matter until they received the variance or they could vote on the subdivision now.

Steve agreed to wait until the variance was approved to go before the Board of County Commissioners.

Ben asked why three houses and one trailer were on one lot without having applied for a subdivision.

Steve said that the dwellings were added before the present interpretation of law, which requires subdivision. He said that all the dwellings have proper septic permits.

The Board tabled action on the variance issue until the May 17, 2006 meeting.

(b) Board action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and findings with the Staff Report.

(2) Board Decision

The vote was called; the members voted (7-0) to approve the Subdivision. (See Attachment C, Hamilton Heights Block 17, Lot 2A, AP Vote Sheet)

8. **Close Public Hearing**

9. **Communications from Staff**

Karen said that the Planning Department Budget Hearing was changed to May 3, 2006 at 9:00 a.m. She also invited Board members to attend a public meeting on May 3, 2006 at 2:00 p.m. to hear the results of the Highway 93 South Corridor Public Meetings and ideas for implementation. She said that the Park Board is meeting with Planning Staff to work on the Master Park Plan, specifically a mapping exercise. **Ben** said he would like to attend the Park Board meeting once the date is rescheduled.

Dan said that the Right to Farm & Ranch Board will have a meeting on May 25, 2005 at 7:00 p.m. to discuss land-use planning tools. He invited the Planning Board to attend.

10. **Communications from Public**

There were none.

11. **Communications from Board**

Dan said the Board was supposed to discuss an amendment to the Growth Policy, but since Gary Zebrowski was not present, the Board would put this on hold.

Ben said that three Board members met for a Land Use Sub-Committee meeting. They discussed the Sub-Committee's mission and goals and identified three items on which to work:

- (1) Understanding and helping Planning Staff update the subdivision regulations,
- (2) Identifying other planning tools the Board could use (such as the Tim Davis handout), and
- (3) Picking an area within the County and seeing what the Sub-Committee could do with it, relative to zoning and density.

Lori asked if the Board or Staff had heard anything from the Road Supervisor about pro-rata.

Karen said Staff had a map with the thirteen proposed pro-rata districts.

(**Renee** brought in the proposed pro-rata map and displayed it for the Board.)

Frankie said the map does not fix the problem.

Karen said the proposal came from the Road Department. She said the current issue is fixing nexus, not proportionality.

Lori stated she was frustrated with the Board of County Commissioners after attending a meeting that the Planning Board requested. She said the Commissioners deferred to Dave Ohnstad of the Road Department and barely gave Planning Board members the opportunity to speak.

Karen said the proposed pro-rata map is just a rough draft and is open to comments.

Ben commented that he did not like the proposal. **Dan** asked if the pro-rata district map is available electronically. He suggested taking a digital photo of it and emailing it to Board members. **Ben** said the pro-rata map does not look like he thought it would. He recommended giving everyone a base map and crayons to make their own version.

Lori said James McCubbin was concerned at the Planning Board meeting about the County getting sued over pro-rata, but at the meeting before the Board of County Commissioners, he said it was not likely. She asked how much pro-rata typically costs and how likely it was that the County would be sued.

Renee said pro-rata fees vary.

Chip said that if there was a lawsuit against the County and the plaintiff won, the County might have to pay back all the pro-rata fees collected. He said a similar situation occurred in Bozeman.

JR said that under state law, the money collected through pro-rata has to be spent on that road. He said that if it is not spent on the road within seven years, the County has to refund the money. He said a similar situation recently happened in Missoula.

Karen said that the pro-rata fees are not technically impact fees. She said that Tischler, an impact fee consultant, has stated that pro-rata fees should remain separate from other impact fees.

Chip said that the fact that there are so many different views on pro-rata from the Board means the County has a high likelihood of being sued.

Lori recommended moving on the issue now in order to avoid being sued.

Karen said a number of road issues were put on hold because the Interim Zoning was pushed forward. She said that road issues, including pro-rata and engineering fees for road reviews, would be addressed soon by the Board of County Commissioners. She thought they might be waiting until Dave Ohnstad returns from vacation.

Ben motioned that the Board send Lori to go to the Board of County Commissioners to further address road issues.

Chip seconded the motion.

The vote was called; the members voted (7-0) to approve sending **Lori** to speak with the Board of County Commissioners.

Chip said he was disappointed that the Planning Board was cut out of the Interim Zoning process.

Ben agreed, but added that the Staff did a good job with the documents and he did not have large problems with it.

Frankie said the Board discussed interim zoning two years ago, but it never went anywhere until it became a crisis situation.

Ben said it is likely that the same thing could happen with general zoning. The Planning Board has offered help, but he has not heard a response from the Board of County Commissioners.

In response to concerns expressed about the role of the Planning Board, **Karen** suggested the Board speak with the Board of County Commissioners. She commented that the Planning Board is required to be involved with creation of permanent zoning.

Frankie said she had been attending a streamside setback group and asked about the process of implementing the setbacks.

Karen said it will depend on how it is done, but most likely the issue will have to go through the Planning Board. She noted that Staff is staying involved with this project.

Dan said he hoped the setbacks would affect structures and subdivisions.

Ben said Gary Zebrowski was going to offer to help Karen and Staff update the subdivision regulations.

Chip said zoning and land use ideas should come from the bottom-up.

Lori said she was disappointed with the way the landowners were skimmed over during the US Highway 93 Corridor meetings. She recommended starting with the landowners and asking them their opinions.

12. New Business

There was none.

13. Old Business

There was none.

14. Next Regularly Scheduled Meeting: May 3, 2006 at 7:00 p.m.

(A) Mountain View Orchards, Block 12, Lot B, AP (Zech) Minor Subdivision – Second Public Hearing

15. Adjournment

Dan adjourned the meeting at 3:57 p.m.